

DEC 26 2024

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

IN THE MATTER OF THE DENIAL OF)	
APPLICATION OF LICENSE FOR)	FINDINGS OF FACT, CONCLUSIONS
REMINGTON B. MILLER)	OF LAW, RECOMMENDED ORDER
)	AND ORDER
)	
)	CAUSE NO. A-2420
)	
)	
)	
)	

This matter came on for hearing on the 17th day of December 2024, before Megan VanAusdall, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance (“Department”) was represented by its attorney, Michael Anderson. Remington B. Miller, (“Applicant”) was present by telephone and WebEx and was not represented by an attorney. The proceedings were tape recorded by Shelly Storie, a licensed Notary Public. Evidence was received, testimony was adduced, and the matter was taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
2. On or about October 22, 2007, Applicant entered a guilty plea to a charge of Forgery, a class C felony, in violation of Rev. Stat. Mo. §570.090.1, in the Cape Girardeau (Jackson) Circuit Court of Missouri. The imposition of Applicant’s sentence was suspended, meaning that if Applicant successfully completed five years of supervised probation, the conviction would be removed from Applicant’s criminal history. On November 25, 2012, Applicant completed his term of supervised probation and was released from court supervision. (Ex. 1, Attachment 1)

3. On or about October 28, 2024, Applicant applied for a Nebraska resident producer's license. Applicant disclosed his criminal conviction on his application and included his court records as an attachment to the Application. (Ex. 1, Attachment 1)

4. On November 1, 2024, the Department denied Applicant's application for licensure due to Applicant's felony criminal conviction, as provided by Neb. Rev. Stat. §44-4059(1)(f). (Ex. 1, Attachment 2)

5. On November 21, 2024, Applicant submitted a timely request for appeal, via email. (Ex. 1, Attachment 3)

6. Applicant testified at the administrative hearing, explaining the circumstances of his criminal conviction. Applicant stated he was the only child of a single mother, who struggled financially throughout Applicant's life. Applicant's mother took her vehicle into an "Purcell Auto" location for repairs, but the quoted price was more than she could afford. Applicant testified that his mother came back from the automotive shop with an application for a line of credit at Purcell Auto, then she filled out the credit application using Applicant's grandmother's (her mother's) name and information, and Applicant delivered the credit application back to Purcell Auto, knowing it contained fraudulent information. Applicant stated that when his grandmother discovered the fraudulent credit application and confronted him about it, he took full responsibility so that his mother's license as a registered nurse would not be affected by a possible felony charge. Applicant also testified he struggled with mental health, specifically depression, during this time period, which influenced his thinking.

Applicant included in the statement he attached to his Application the following:

"In court I was pretty honest with the judge about the situation, being a scared young person. He looked at my records and statements from my grandfather

and grandmother and agreed not to go with a conviction if I could do probation. There was no issue with probation and I was told was cleared. Since then, the family is even aware what really happened and I have a wonderful relationship with my grandparents.”

In the time since his release from supervised probation, Applicant testified he has made a complete change in his life, gained full-time employment, and started his own family. The court records Applicant attached also show that all restitution and court costs were paid in full before Applicant was released from supervised probation. (Ex 1, Attachment 1)

Applicant stated that he found steady employment first with the AT&T phone company, then more recently with Progressive Insurance Company (Applicant’s current employer). At the hearing, Applicant stated he understood and appreciated the need for scrutiny in granting insurance licenses, as a means of protecting sensitive consumer information, Applicant’s continued employment with Progressive Insurance Company is contingent on his receipt of an insurance license, a condition Applicant also disclosed at hearing. (Applicant’s testimony at License Denial Hearing; Ex 1, Ex 1)

During the hearing, Applicant and the Department representative stipulated to the entry into evidence of an email from the Missouri Department of Commerce and Insurance stating that Applicant was granted an insurance producer’s license in that state as of October 25, 2024, and that the state of Missouri did not require a 1033 waiver for Applicant to obtain the license. (Applicant’s testimony at License Denial Hearing; Ex 4)

CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control, and discretion over the licensing of insurance producers in the State of Nebraska pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-4047 to 40-4069.

2. The Department has personal jurisdiction over Respondent.

3. Pursuant to Neb. Rev. Stat. §§44-4059(1)(f), the director may suspend, revoke, or refuse to issue or renew an insurance producer's license for the conviction of a felony.

4. If the director does not renew or denies an application for a license, the director shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the director within thirty days for a hearing before the director to determine the reasonableness of the director's action. The hearing shall be held within thirty days and shall be held pursuant to the Administrative Procedure Act, pursuant to Neb. Rev. Stat. §40-4059(2).

DISCUSSION

Applicant's criminal conviction constitutes a sufficient statutory basis to deny his application as a Nebraska resident insurance producer. However, such denial is discretionary, not mandatory. The purpose of the license denial hearing is to determine the reasonableness of the denial. In the context of a proper denial, the hearing gives an applicant the opportunity, and the burden, to show why a license should be granted.

Applicant testified that since his 2007 conviction, he has made significant strides in building a life for himself, including starting a family and working full-time. Applicant's efforts should be commended. Applicant is requesting to be provided a resident insurance producer's license, after changing career paths to support his family by going into the insurance industry, specifically as an

employee of Progressive Insurance. Applicant's Application for licensure at this point in time can be seriously considered, despite Applicant's criminal history, because the records show that Applicant has been successful in making a change and demonstrate a substantial likelihood that Applicant will not re-offend, or make decisions which conflict with the ethical standards required of an insurance producer.

Succinctly stated, the weight of the evidence presented by the Applicant sufficiently supports a finding that the denial of the Applicant's request for license may be overturned without endangering any Nebraska citizens. It should be noted that the Department's representative made a recommendation that Applicant's licensure request be granted at the hearing.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law made herein, it is recommended that the initial decision to deny Applicant's licensure request, while supported by a sufficient evidentiary basis, be OVERTURNED, and that Applicant's request for licensure as a resident insurance producer is granted.

Dated this 26th day of December 2024.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Megan VanAusdall, #27433
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of the Denial of Application for License for Remington Miller, Cause No. A-2420.

Dated this 26th day of December 2024.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Eric Dunning
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Applicant by mailing a copy to him at 2325 Kent Drive, Cape Girardeau, MP 63701, via regular U.S. mail, and by sending a copy as a digital attachment via email to "RMILLE19@PROGRESSIVE.COM" on this 26th day of December 2024.

